

REMARKS

Applicant has studied the Office Action dated March 21, 2007. Claims 1-30 are pending. Claims 1, 7, 12, 14, 18, 22, 23, and 26 have been amended. Claims 1, 13, and 23 are independent claims. No new matter has been added as the amendments have support in the specification as originally filed.

It is submitted that the application, as amended, is in condition for allowance. Reconsideration and reexamination are respectfully requested.

Amendments to the Claims

Claims 12, 22, and 26 have been amended correct typographical or grammatical errors or to more clearly disclose the invention. It is respectfully submitted that the amendments have support in the application as originally filed and are not related to patentability.

§ 112 Rejections

The Examiner rejected claims 1-30 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner asserted the following:

Claim 1 is confusing since it lacks essential structural cooperative relationships of elements in that there are no connections between the recited elements.

The phrase "setting a corresponding ... threshold" at lines 8-9 of claims 1 and 13 and at lines 10-11 of claim 23 is confusing in that it sets a condition for determining the "decision variable, if the larger energy value is greater than the threshold" but it is unclear what energy value is used as a decision variable when the condition is not met or when the larger energy value is not greater than the threshold.

The phrase "approximately equal" at line 3 of claims 4 and 7 is indefinite because it is not a positive limitation.

The phrase "approximately same" at line 2 of claim 18 is indefinite because it is not a positive limitation.

Claims 1, 13 and 23

It is respectfully noted that "Breadth of a claim is not to be equated with indefiniteness." *In re Miller*, 441 F.2d 689, 169 USPQ 597 (CCPA 1971). It is further respectfully noted that if the scope of the subject matter embraced by the claims is clear, and if applicants have not otherwise indicated that they intend the invention to be of a scope different from that defined in the claims, then the claims comply with 35 U.S.C. 112, second paragraph. MPEP § 21173.04.

With respect to claims 1, 13 and 23, it is respectfully submitted that the claims are not intended to address the situation when "the larger energy value is not greater than the threshold." It is further respectfully noted that an important aspect of the present invention relates to "setting a corresponding signal of the larger energy value as a decision variable if the larger energy value is greater than the threshold" and, as such, is not directed to the condition when "the larger energy value is not greater than the threshold."

It is respectfully submitted that those skilled in the art can clearly understand that the important feature of the present invention is only applicable to the certain condition where "the larger energy value is greater than the threshold." Therefore, it is further respectfully submitted that the condition where "the larger energy value is not greater than the threshold" is non-essential and the claim need not address this condition in order to be complete. Moreover, it is respectfully submitted that the scope of the subject matter embraced by the claims is clear and, therefore, that the rejection is not proper.

It is respectfully noted that claim 1 has been amended with this paper to recite structural relationships between the elements. It is respectfully submitted that the ground for rejection has been overcome with the amendment to claim 1 with regard to the asserted "lack of structural relationships" and that claims 1, 13 and 23 are not "incomplete" as asserted by the Examiner. It is respectfully requested that the rejections be withdrawn.

Claims 4, 7 and 18

With respect to the rejection of claim 4, it is respectfully noted that the phrase "approximately equal" is not found in claim 4. It is respectfully assumed that the Examiner meant to indicate claim 14, which does recite "approximately equal." It is respectfully noted that claims 7, 14 and 18 have been amended with this paper to delete the word "approximately."

It is respectfully submitted that the grounds for rejection have been overcome with the amendments to claims 7, 14, and 18. It is respectfully requested that the rejections be withdrawn.

Allowable Subject Matter

Applicant graciously acknowledges the Examiner's indication that claims 1-30 would be allowable if the rejections under 35 U.S.C. § 112, second paragraph, were overcome. Since it is believed that the 35 U.S.C. § 112, second paragraph, rejections have been overcome, it is believed that claims 1-30 are in condition for allowance.

CONCLUSION

In view of the above remarks, Applicant submits that claims 1-30 of the present application are in condition for allowance. Reexamination and reconsideration of the application, as originally filed, are requested.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

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